

# **BOARD/BUREAU OF BARBERING AND COSMETOLOGY**

## **INITIAL STATEMENT OF REASONS**

**Hearing Date: July 10, 2006**

**Subject Matter of Proposed Regulations: Schedule of Administrative Fines**

**Sections Affected: Article 11, 974(a) California Code of Regulations**

### **Specific Purpose**

To raise fines to one set amount for each violation, remove the prior progressive discipline system, and discontinue the practice of waiving fines for certain first offense violations.

### **Factual Basis/Rationale**

In accordance with the Board of Barbering and Cosmetology's 2004/05 strategic plan goals, a task force was convened on March 20, 2006 to review problems with the existing Schedule of Administrative Fine system.

Participants in the task force were comprised of one Board member, Board staff including three inspectors, a private school owner, community college director, private salon consultant and three individual licensees (cosmetologist, esthetician, barber).

The task force discovered the following problems with the current system.

1. Current progressive discipline system was deemed confusing for the licensees and also failed to provide enough of a monetary deterrent for some establishments to correct serious health and safety violations.
2. Because fines for many of the first offense violations were being waived, compliance was not received until an inspector's second and sometimes third site visit.
3. Inspectors rarely conducted weekend inspections because they are unable to verify licensee priors with headquarters staff. Elimination of a "priors" progressive discipline system will allow the inspectors to conduct more Saturday and Sunday inspections when unlicensed activity is believed to be most prominent.

To correct the problems listed above, the task force decided to eliminate the current system of priors and progressive discipline. They propose to assess each violation with one set fine amount and decided to identify three separate categories for violations; highest risk to consumers, medium risk to consumers and lowest risk to consumers. The task force assigned monetary values to the three categories; \$1,000, \$500 and \$100. In addition, the task force recommended to discontinue the practice of waiving fees for certain correctable first offenses.

At the April 2006 Board meeting, the task force's findings and recommendations were presented to the Board for action. The Board approved the recommendations of the task force and ordered Board staff to begin the regulatory process.

### **Underlying Data**

- 1: The task force March 20<sup>th</sup>, 2006 meeting minutes.
- 2: The April 24<sup>th</sup>, 2006 Board's meeting minutes.

### **Business Impact**

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

### **Specific Technologies or Equipment**

This regulation does not mandate the use of specific technologies or equipment.

### **Consideration of Alternatives**

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

The Board did consider various alternatives to the proposed action, including but not limited to, making no changes or minimizing the cite and fine program altogether. The Board believes that the recommended changes ensure the best chance of protecting consumers from serious health and safety violations.